



Doc. 13940 – Compendium of written amendments
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(Final version)

How to prevent inappropriate restrictions on NGO activities in Europe?

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A. Draft Resolution

1. The Parliamentary Assembly recalls the importance of the role of a dynamic civil society for the good functioning of democracy and pays tribute to all non-governmental organisations (NGOs), whose work has strengthened human rights, democracy and the rule of law in their States.
2. The Assembly stresses that all States Parties to the European Convention on Human Rights (ETS No. 5) have agreed to ensure respect for freedom of assembly and association as well as freedom of expression and of information, and thus to create a favourable environment for the exercise of those freedoms, guided by the case law of the European Court of Human Rights, Committee of Ministers Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe and the "Joint guidelines on freedom of association" adopted in December 2014 by the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR).
3. The Assembly reaffirms its previous Resolutions 1660 (2009) and 1891 (2012) on the situation of human rights defenders in Council of Europe member States, as well as Resolution 2060 (2015), Recommendation 2073 (2015), Resolution 1729 (2010) and Recommendation 1916 (2010) on the protection of "whistle-blowers".
4. The Assembly notes that in certain Council of Europe member States the situation of civil society has dramatically deteriorated over the last few years, in particular following the adoption of restrictive laws and regulations, some of which have been strongly criticised by the Venice Commission, the Council of Europe Commissioner for Human Rights and the Conference of International Non-governmental Organisations (INGOs). In certain member States, NGOs encounter various impediments to their registration, functioning and financing. In some member States, despite an appropriate legal framework, certain NGOs such as human rights defenders and watchdog organisations are stigmatised. The Assembly is particularly worried about the restrictions affecting civil society in Azerbaijan and the Russian Federation and about the situation in annexed Crimea and other territories outside the control of State authorities.
5. As regards the situation of civil society in Azerbaijan, the Assembly recalls its Resolution 2062 (2015) on the functioning of democratic institutions in Azerbaijan and condemns once again the deterioration of the working conditions of NGOs and human rights activists following changes to the legislation on NGOs imposing inappropriate restrictions on their activities. The Assembly calls on Azerbaijan to amend its legislation on NGOs in accordance with the recommendations of the Venice Commission (Opinions Nos. 636/2011 and 787/2014) and to fully and promptly implement judgments of the European Court of Human Rights, in particular those

Amendment 3

Tabled by Mr François ROCHEBLOINE, Ms Naira ZOHRABYAN, Ms Hermine NAGHDALYAN, Ms Dalia KUODYTĖ, Ms Inese LĪBIŅA-EGNERE

In the draft resolution, at the end of paragraph 5, add the following words: "The Assembly strongly condemns the unprecedented repression of civil society in Azerbaijan; reiterates its deep concern for the fate of activists who are under criminal investigation, in the light of reports from human rights defenders and domestic and international

finding violations of the freedoms of association, assembly and expression.

NGOs of the alleged use of fabricated charges against political figures, activists and journalists."

Amendment 4

Tabled by Mr François ROCHEBLOINE, Ms Naira ZOHRABYAN, Ms Hermine NAGHDALYAN, Ms Dalia KUODYTĖ, Ms Inese LĪBIŅA-EGNERE

In the draft resolution, at the end of paragraph 5, add the following words: "The Assembly demands the immediate and unconditional release of all political prisoners, human rights defenders, journalists and other civil society activists, including Khadija Ismayilova, and a prompt investigation into the death of the journalist Rasim Aliyev. It demands that the Azerbaijan government immediately end its crackdown on civil society and human rights work."

Amendment 5

Tabled by Mr François ROCHEBLOINE, Ms Naira ZOHRABYAN, Ms Hermine NAGHDALYAN, Ms Dalia KUODYTĖ, Ms Inese LĪBIŅA-EGNERE

In the draft resolution, at the end of paragraph 5, add the following words: "The Assembly expresses its serious concern over the continuing deterioration of the human rights situation in Azerbaijan, and calls on Council of Europe member States to attach special importance to human rights and fundamental freedoms in the context of bilateral cooperation."

6. The Assembly also expresses strong concern about the so-called "foreign agents law" modifying the Russian legislation on non-commercial organisations to the effect that NGOs receiving foreign funding are obliged to register as "foreign agents". It notes that dozens of NGOs have been unilaterally registered as foreign agents by the Minister of Justice and that even the laureate of the Assembly's 2011 Human Rights Prize, the Nizhniy Novgorod Committee against Torture, was recently forced to close down for this reason. The Assembly is also worried about the adoption, in May 2015, of the "law on undesirable organisations", the implementation of which may lead to the closure of major international and foreign NGOs working in the Russian Federation. The Assembly calls on Russia to amend the legislation on NGOs in accordance with the Venice Commission's Opinions Nos. 716/2013 and 717/2013 and calls on the authorities to implement the remaining provisions of this legislation in accordance with the international standards on the right to freedom of association and other relevant human rights.
7. The Assembly therefore calls on member States to:

- 7.1. fully implement Committee of Ministers Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe;
- 7.2. review existing legislation with a view to bringing it into conformity with international human rights instruments regarding the rights to freedom of association, assembly and expression, by making use of the expertise of the Council of Europe, and in particular of the Venice Commission;
- 7.3. refrain from adopting any new laws which would result in inappropriate restrictions on NGOs;
- 7.4. ensure that NGOs are effectively involved in the consultation process concerning new legislation which concerns them and other issues of particular importance to society;
- 7.5. ensure an enabling environment for NGOs, in particular by refraining from any harassment (judicial, administrative or tax) and smear campaigns;
- 7.6. sign and/or ratify the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations (ETS No. 124), if this has not yet been done.

Amendment 6

Tabled by Mr François ROCHEBLOINE, Ms Naira ZOHRABYAN, Ms Hermine NAGHDALYAN, Ms Dalia KUODYTĖ, Ms Inese LĪBIŅA-EGNERE

In the draft resolution, after paragraph 7.6, insert the following paragraph:

"review and suspend temporarily all funding granted to Azerbaijan which is not related to human rights, civil society and grassroots level, people to people cooperation."

Amendment 2

Tabled by Mr Boriss CILEVIČS, Mr Bernd FABRITIUS, Mr Rasmus NORDQVIST, Mr Michele NICOLETTI, Mr Karl GARDARSSON

In the draft resolution, after paragraph 7, insert the following paragraph: "The Assembly, mindful of the precarious situation of civil society in the Council of Europe area, resolves to remain seized of the matter and to continue to give it priority, in view of the urgent need to monitor respect for freedom of association, of assembly and of expression."

B. Draft Recommendation

1. Referring to its Resolution (2016) "How to prevent inappropriate restrictions on NGO activities in Europe", the Assembly recommends that the Committee of Ministers:
 - 1.1. call on member States of the Council of Europe to implement its Recommendation CM/Rec(2007)14 and prepare a study taking stock of progress made;
 - 1.2. consider revising Recommendation CM/Rec(2007)14 in order to adapt it to the new threats to the functioning of independent civil societies;
 - 1.3. continue its thematic debate on "The role and functioning of NGOs in the Council of Europe" in order to follow, on a regular basis, the state of civil society and of the freedoms of association, assembly and expression in the member States;
 - 1.4. increase the number of exchanges of views with civil society representatives and provide a fixed framework for such a dialogue;
 - 1.5. consider creating a platform for the exchange of experience and good practices in the area of freedom of association between the member States.

Amendment 1

Tabled by Mr Rónán MULLEN, Mr Terry LEYDEN, Mr Nigel EVANS, Mr Pieter OMTZIGT, Lord Donald ANDERSON, Mr Phil WILSON

In the draft recommendation, after paragraph 1.5, insert the following paragraph:

"revise the Council of Europe rules for participatory status for international non-governmental organisations (INGOs), as set out in Resolution Res(2003)8, to provide for an open, clear and transparent application procedure for INGOs, and to provide an appropriate and impartial appeal process where such applications are refused; invite the Secretary General of the Council of Europe to ensure that the Institutions of the Council of Europe, in particular the Civil Society Division, appreciate and respect the work of INGOs in the human rights field by affording such INGOs "participatory status as an INGO" at the Council of Europe when requested, where objective and impartial scrutiny of such application discloses no reason to refuse the same."